

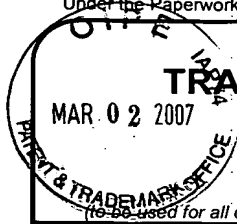
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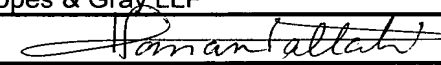
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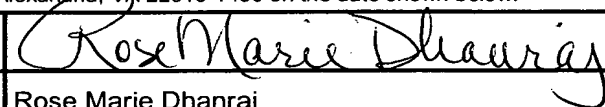
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 <p>TRANSMITTAL FORM</p> <p>(to be used for all correspondence after initial filing)</p>	Application Number	09/382,907	
	Filing Date	August 25, 1999	
	First Named Inventor	Timothy M. Keiser	
	Art Unit	3623	
	Examiner Name	Akiba K. Robinson Boyce	
Total Number of Pages in This Submission	44	Attorney Docket Number	HSX/001 CIP2

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address (Previously submitted) <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Resubmission of Appeal Papers and Power of Attorney <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Corrected Appeal Brief 2. Corrected Reply Brief 3. Request to Associate Application with Customer Number. 4. Copy 07/20/2004 Transmittal Letter; 5. Copy 07/20/2004 Return Postcard; and 6. Return postcard.
<div style="border: 1px solid black; padding: 5px; min-height: 100px;"> Remarks </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Fish & Neave IP Group Ropes & Gray LLP		
Signature			
Printed name	Hassan Albakri		
Date	March 2, 2007	Reg. No.	L0013

CERTIFICATE OF EXPRESS MAILING - EXPRESS MAIL LABEL NO. EV930033126US			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to: Mail Stop: Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Rose Marie Dhanraj	Date	March 2, 2007

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of: Keiser et al.
Art Unit : 3623
Application No. : 09/382,907
Examiner : Akiba K. Robinson Boyce
Filed : August 25, 1999
Docket No. : 10269/11
For : COMPUTER-IMPLEMENTED SECURITIES TRADING
SYSTEM WITH A VIRTUAL SPECIALIST
FUNCTION

RESUBMISSION OF APPEAL PAPERS AND POWER OF ATTORNEY

Mail Stop: Appeal Brief

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Consideration of the following in connection with the
above-identified application is respectfully requested.

I. APPEAL

An Appeal Brief and a subsequent Reply Brief
(hereinafter the "appeal papers") were filed on March 29, 2004
and August 25, 2004, respectively, in connection with the above-
identified application (hereinafter the "907 application"). The
appeal papers were signed by Joel Weiss who, at the time, was
employed by the same firm as the undersigned. Although the
appeal papers correctly identified the 907 application, an
inadvertent reference was made to application no. 09/465,607 in

the header portions of these papers. On March 2, 2005, the Patent and Trademark Office issued a communication stating that the 907 application was forwarded to the Board of Patent Appeals and Interferences for decision on the Appeal.

On February 7, 2007, Examiner Akiba Robinson Boyce contacted Joel Weiss to inform him that the Board of Patent Appeals and Interferences will not consider the appeal papers on file for the 907 application unless they are resubmitted to correct the application number identified in the header portions of these papers. In a telephone conversation with the undersigned on February 16, 2007, Examiner Boyce suggested that the undersigned resubmit the appeal papers and subsequently ensured that a resubmission of these papers correcting the headers and indicating the same would be acceptable and that the appeal papers need not be reformatted or resigned.

Accordingly, applicants herewith resubmit copies of the previously submitted appeal papers correcting the header by means of labels affixed to the appeal papers to reflect that these papers relate to the 907 application and not to application no. 09/465,607.

II. POWER OF ATTORNEY

A Power of Attorney in favor of, among others, Jeffrey H. Ingerman, was filed in connection with the 907 application on July 20, 2004. Nevertheless, correspondence in relation to the 907 application is apparently still being sent to the previous attorneys of record. Applicants draw this conclusion from the Examiner's statement to the undersigned that a recent

communication relating to the 907 application was sent to the previous attorneys of record, the fact that Office Communications sent in 2005 relating to the 907 application were addressed to the previous attorneys of record, and the fact that the undersigned cannot access the 907 application through PAIR.

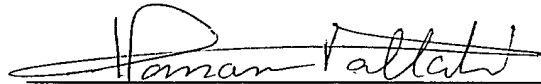
Accordingly, applicants herewith resubmit a copy of a Revocation of Power of Attorney and New Power of Attorney (and transmittal letter) filed in the Patent and Trademark Office on July 20, 2004 and appointing Mr. Ingerman as one of the attorneys of record in the 907 application, as well as a copy of the stamped receipt postcard for those documents. Applicants also submit a request, signed by Mr. Ingerman, to associate the application with Customer No. 64558. Applicants respectfully request that the correspondence address for the application be changed to Customer No. 64558, which is the correspondence address of the undersigned.

III. Conclusion

For the foregoing reasons, applicants request consideration of corrected appeal papers being resubmitted herewith and request that future correspondence in connection with the 907 application be sent to the undersigned.

Applicants believe that no fee is due in connection with this resubmission. However, the Director is hereby authorized to charge any fee that may be due, or to credit any overpayment, in connection with this resubmission, to Deposit Account No. 06-1075. A duplicate copy of this Petition is enclosed herewith.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Hassan Albakri", is written over a horizontal line.

Hassan Albakri
Limited Recognition No. L0013
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1211 Avenue of the Americas
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of: Keiser et al.
Art Unit : 3623
Application No. : 09/382,907
Examiner : Akiba K. Robinson Boyce
Filed : August 25, 1999
Docket No. : 10269/11
For : COMPUTER-IMPLEMENTED SECURITIES TRADING
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RESUBMISSION OF APPEAL PAPERS AND POWER OF ATTORNEY

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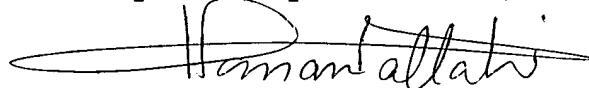
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III. Conclusion

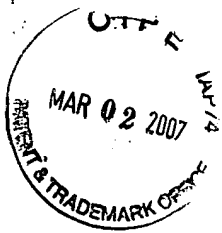
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Applicants believe that no fee is due in connection with this resubmission. However, the Director is hereby authorized to charge any fee that may be due, or to credit any overpayment, in connection with this resubmission, to Deposit Account No. 06-1075. A duplicate copy of this Petition is enclosed herewith.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Hassan Albakri', is written over a horizontal line.

Hassan Albakri
Limited Recognition No. L0013
Agent for Applicants
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of: Keiser et al.
Art Unit : 3623
Application No. : 09/382,907
Examiner : Akiba K. Robinson Boyce
Filed : August 25, 1999
Docket No. : 10269/11
For : COMPUTER-IMPLEMENTED SECURITIES TRADING
SYSTEM WITH A VIRTUAL SPECIALIST
FUNCTION
Appeal No. : Not yet assigned

APPEAL BRIEF UNDER 37 C.F.R. §1.192

Mail Stop: Appeal Brief - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the decision of Examiner
Clement B. Graham, Group Art Unit 3623, in the Final Office
Action of April 30, 2003, rejecting claims 1, 3-9 and 11-14 in
the present application.

Pursuant to 37C.F.R. §1.192, applicants/appellants
file this Appeal Brief, in triplicate, in support of the
September 30, 2003 Notice of Appeal from the Examiner's final
Office Action of April 30, 2003 finally rejecting claims 1, 3-9
and 11-14 which are pending in this application.

Pursuant to 37 C.F.R. §1.17(c) and 37 C.F.R.
§1.17(a)(4), applicants/appellants enclose herewith a check in

the amount of \$1810.00 in payment of the filing fee for this Appeal Brief with a four-month extension. The Director is authorized to charge any additional fees that may be due, or to credit any overpayment, in connection with the filing of this Appeal Brief, to Deposit Account No.06-1075. A separate Authorization to Charge Deposit Account is enclosed for that purpose (in duplicate).

This Brief has the following appendix:

Appendix A: Copy of claims 1, 3-9 and 11-14 involved in this Appeal.

I. REAL PARTY IN INTEREST

The real party in interest of this application is CFPH, L.L.C., having a business at 135 E. 57th Street, 5th floor, New York, NY 10022.

II. RELATED APPEALS AND INTERFERENCES

An Appeal Brief was filed on February 11, 2004 in related Application No. 09/465,607.

III. STATUS OF THE CLAIMS

Claims 1, 3-9 and 11-14 are pending and stand rejected in the present application. In the final Office Action mailed

on April 30, 2003, claims 1, 3, 8, 9, 11, 13 and 14 were rejected under 35 U.S.C. § 103(a) as being obvious from Nymeyer U.S. Patent No. 3,581,072 (hereinafter "Nymeyer") further in view of Fernholz U.S. Patent No. 5,819,238 (hereinafter "Fernholz"). Claims 4-7 and 12 were rejected as being obvious from Nymeyer in further view of Fernholz and further in view of Stein, et al U.S. Patent No. 5,826,241 (hereinafter "Stein").

Applicants/appellants ("applicants") appeal from the final rejection of claims 1, 3-9 and 11-14. For the reasons set forth herein, applicants respectfully submit that the rejection of claims 1, 3-9 and 11-14 should be overturned by the Board of Patent Appeals.

IV. STATUS OF AMENDMENTS

There have been no amendments to any of the pending claims since the April 30, 2003 final rejection. On July 30, 2003, applicants filed a response to the final Office Action. An Advisory Action was mailed on September 9, 2003 stating that the reply of July 30, 2003 failed to place the application in condition for allowance. Applicants filed a Notice of Appeal on September 30, 2003.

V. SUMMARY OF THE INVENTION

Applicants' invention, as claimed by claims 1, 3-9, and 11-14, is directed to computerized methods and systems for trading a plurality of instruments via buy orders and sell orders. Each of independent claims 1, 9 and 14 recite elements relating to measuring an imbalance between buy orders and sell orders for an instrument received over a given period, computing a projected price movement based on the measured imbalance between the number of buy and sell orders, and setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance. Furthermore, each of independent claims 1, 9, and 14 specifically recites means for or a method step relating to "generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders". Applicants' independent claims further recite, among other limitations, generating an electronic currency to execute the buy and sell orders.

Systems according to the invention participate in the market as a trader, through the use of, for example, a virtual specialist program. One advantage obtained by such participation is the reduction of price volatility and the increase of market stability in the trade item by automatically

generating appropriate buy or sell orders to offset or partially offset stock price movement. See, e.g., page 4, lines 5-6, page 14, lines 20-24; page 15, lines 1-2, lines 11-12; lines 22-23 and page 16, lines 5-7. To actively trade in the market, the system may generate electronic currency with which to execute buy and/or sell orders. See, e.g., page 2, lines 14-15; page 15 lines 22-23.

VI. ISSUES

The issue in this appeal is whether the Examiner erred in rejecting claims 1, 3-9, and 11-14, as unpatentable under 35 U.S.C. § 103(a) based on Nymeyer in view of Fernholz and claims 4-7 and 12 in further view of Stein.

VII. GROUPING OF THE CLAIMS

Applicants submit that all of the claims stand or fall together.

VIII. ARGUMENT

In the final Office Action dated April 30, 2003, the Examiner rejected claims 1, 3, 8, 9, 11, 13 and 14 under 35 U.S.C. § 103(a) as being obvious from Nymeyer in further view of Fernholz. Claims 4-7 and 12 were rejected as being obvious from

Nymeyer in further view of Fernholz and further in view of Stein. Applicants respectfully traverse these rejections and request that they be overturned for at least the reasons set forth below.

The Examiner's argument that each of the independent claims 1, 9 and 14 is unpatentable as obvious over Nymeyer further in view of Fernholz is fundamentally flawed because the Examiner has not shown that all of the limitations of the claims are present in any single reference or in a combination of references. Exemplary independent claim 1 recites:

1. A method for trading a plurality of instruments in a computerized trading system that receives buy orders and sell orders for an instrument, the method comprising:

measuring an imbalance between the buy orders and sell orders for the instrument received over a given period;

computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

generating an electronic currency to execute the buy and sell orders;

crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader; and

debiting a second trader's account in the electronic currency for the executed buy orders by the second trader. (Emphasis supplied).

The emphasized limitation is not present in the prior art.

Nevertheless, the Examiner states that the emphasized limitation is present in Nymeyer. With respect to the italicized element, the Examiner cites Column 11, line 68 to Column 12, line 3.

This portion of Nymeyer states,

As pointed out above, the "at market" orders are effectively entered into the computation system at prices determined by the last selling price for the goods. In the illustrated system 10, with the closing price store 32 connected to main store 18, the prices employed for "at market" orders can be computed directly, adding one minimum price increment to the closing price for buy orders and reducing the closing price by one minimum increment for sell orders, by means of relatively simple computing circuits of known type. The same effect could be achieved by having the system operators encode "at market" orders for price, though automatic computation is preferred to reduce the human error factor.
(Emphasis added.)

Applicants repeatedly have asserted that both the cited portion of Nymeyer or Nymeyer as a whole does not show or suggest the italicized limitation related to generating additional buy or sell orders. Applicants repeat this assertion herein and provide the requisite proof for this assertion as follows.

The Examiner's reliance on Nymeyer to reject the claims under 35 U.S.C. § 103(a) fails because Nymeyer, in fact, does not teach or suggest such an element. Rather than disclosing generating additional orders, Nymeyer merely discusses a method of assigning a price for an existing "at market" bid or offer. While this assigning may entail incrementation or decrementation based on auction conditions, nevertheless, Nymeyer does not show or suggest generating additional orders.

The Abstract of Nymeyer supports applicants' position. The Abstract section of Nymeyer specifically states, "[t]he prices accompanying the last pair of orders to be matched are then used to establish a trading price for all of the matched pairs and a new market price for future transactions. Unpriced or 'at market' orders are assigned prices based upon the market price" Applicants further point out Col. 7, lines 40-63, which also show that Nymeyer is merely setting an appropriate price for "at market" orders that have already been entered. Thus, Nymeyer does not show or suggest generating additional orders according to the invention.

A determination of obviousness of a claimed invention requires that all of the claim limitations be

taught or suggested by the prior art. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339, 1359, 51 USPQ2d 1385, 1399 (Fed. Cir. 1999). Where, as here, the Examiner fails to establish a *prima facie* case of unpatentability, the applicant is entitled to grant of the patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Nymeyer simply does not provide the required teaching or suggestion of a limitation relating to generating an order according to the invention. Nor does anything else in the prior art.

Fernholz discusses an automated securities portfolio management system that automatically trades as needed to modify a portfolio. Based on security price information input into the system and utilizing weights and indices calculated from such price information, the system determines and trades what the system calculates to be appropriate market orders for modifying the portfolio. Fernholz clearly does not make up the deficiency of Nymeyer nor has the Examiner asserted that Fernholz shows or suggests the italicized claimed limitation relating to generating orders. Nor does Stein, which relates to a computerized system for making payments and authenticating transactions over the Internet, make up this deficiency.

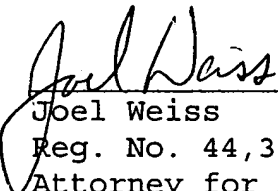
Thus, the Examiner has failed to establish a *prima facie* case of obviousness, and independent claims 1, 9, 14, as well as dependent claims 3-9 and 11-14 (which are dependent on independent claims 1 and 9 respectively) are patentable.

IX. CONCLUSION

In view of the foregoing, it is believed that all pending claims 1, 3-9 and 11-14 are in proper condition for allowance, and the Board is respectfully requested to overturn the Examiner's rejection of these claims.

Respectfully submitted,

Dated: 3/29/04



Joel Weiss
Reg. No. 44,398
Attorney for Applicants/Appellants
FISH AND NEAVE
Customer No. 1473
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(212) 596-9000



X. APPENDIX

Claims Currently Pending

1. A method for trading a plurality of instruments in a computerized trading system that receives buy orders and sell orders for an instrument, the method comprising:

measuring an imbalance between the buy orders and sell orders for the instrument received over a given period;

computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

generating an electronic currency to execute the buy and sell orders;

crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader; and

debiting a second trader's account in the electronic currency for the executed buy orders by the second trader.

3. The method according to claim 1, further comprising exchanging the electronic currency in the first or second trader's account for desired currency.

4. The method according to claim 3, wherein the electronic currency are exchanged at a currency exchange web site, and wherein a request for the exchange is transmitted to the currency exchange web site via a secured communication.

5. The method according to claim 1, further comprising purchasing goods or services using the electronic currency in the first or second trader's account, the goods or services being offered for sale by an on-line vendor via a web site on the Internet.

6. The method according to claim 5, wherein a request for the purchase is transmitted to the vendor's web site via a secured communication.

7. The method according to claim 5, wherein the vendor debits the first or second trader's account in the electronic currency for the purchase of goods or services via a secured communication.

8. The method according to claim 1, wherein the additional buy orders or sell orders for the instrument are automatically generated at the market price if the projected

price movement is greater than or equals a predetermined price movement threshold.

9. A computerized trading system for trading a plurality of instruments via buy orders and sell orders, comprising:

means for measuring an imbalance between the buy orders and sell orders for an instrument received over a given period;

means for computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

means for setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

means for automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

means for generating an electronic currency to execute the buy and sell orders; and

means for crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader and for debiting a second trader's account

in the electronic currency for the executed buy orders by the second trader.

11. The system according to claim 9, further comprising means for exchanging the electronic currency in the first or second trader's account for desired currency.

12. The system according to claim 9, further comprising means for purchasing goods or services using the electronic currency in the first or second trader's account, the goods or services being offered for sale by an on-line vendor via a web site on the Internet.

13. The system according to claim 9, wherein the additional buy orders or sell orders for the instrument are automatically generated at the market price if the projected price movement is greater than or equals a predetermined price movement threshold.

14. A computer-readable storage medium for storing program code means for, when executed, causing a computer to perform a method for trading a plurality of instruments in a computerized trading system that receives buy orders and sell orders for an instrument, the method comprising:

measuring an imbalance between the buy orders and sell orders for the instrument received over a given period;

computing a projected price movement based on the
measured imbalance between the number of buy and sell orders;

setting a market price for the instrument based upon
the received buy and sell orders and the measured imbalance;

automatically generating additional buy orders or sell
orders for the instrument at the market price to guarantee
execution of some or all of the received buy or sell orders;

generating an electronic currency to execute the buy
and sell orders;

crediting a first trader's account with proceeds in
the electronic currency for the executed sell orders by the
first trader; and

debiting a second trader's account in the electronic
currency for the executed buy orders by the second trader.



10269-11CIP
(HSX/001 CIP2)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant/Appellant : Keiser et al.
Application No. : 09/382,907 Confirmation No. : 5840
Filed : August 25, 1999
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SYSTEM WITH A VIRTUAL SPECIALIST
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Art Unit : 3623
Examiner : Akiba K. Robinson Boyce
Docket No. : 10269/11

New York, New York 10020
August 25, 2004

Mail Stop: Appeal Brief-Patents
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 C.F.R. § 1.193(b)

Sir:

Pursuant to 37 C.F.R. § 1.193(b), applicants/
appellants ("applicants") file this Reply Brief, in triplicate,
in response to the Examiner's Answer mailed July 2, 2004.

In view of the arguments and authorities set forth in
the Appeal Brief and hereinbelow, this Board should find the
rejections of claims 1, 3-9 and 11-14 of the above-identified
patent application to be in error, and should reverse those
rejections.

This Brief has the following appendix:

Appendix A: Copy of claims 1, 3-9 and 11-14 involved in this Appeal.

I. Introduction

Claims 1, 3-9 and 11-14 are pending and stand rejected in the present application. In the final Office Action mailed on April 30, 2003, claims 1, 3, 8, 9, 11, 13 and 14 were rejected under 35 U.S.C. § 103(a) as being obvious from Nymeyer U.S. Patent No. 3,581,072 (hereinafter "Nymeyer") further in view of Fernholz U.S. Patent No. 5,819,238 (hereinafter "Fernholz"). Claims 4-7 and 12 were rejected as being obvious from Nymeyer in further view of Fernholz and further in view of Stein, et al U.S. Patent No. 5,826,241 (hereinafter "Stein").

Applicants filed an Appeal Brief on March 29, 2004, appealing from the final rejection of claims 1, 3-9 and 11-14. For the reasons set forth herein, applicants respectfully submit that the rejection of claims 1, 3-9 and 11-14 should be overturned by the Board of Patent Appeals. Specifically, this Reply Brief includes a restatement of portions of the Examiner's Answer of July 2, 2004, followed by applicants' comments thereon.

II. Argument

A. Nymeyer Does Not Generate Additional Orders.

Applicants' invention, as defined by exemplary independent claim 1, includes "automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders."

Nymeyer discusses three types of orders that a user can make - a buy order at a specific price, a sell order at a specific price, and a unpriced order at the market price. (Nymeyer, col. 2, lines 9-10, col. 4, lines 60-63). These "unpriced" orders "are effectively entered into the computation system at prices determined by the last selling price for the goods." (Nymeyer, Col. 11, lines 68-69). However, when the market price changes because buy and sell orders are executed, the "market price" assigned to these unpriced orders must be changed. Assigning market prices to these unpriced orders is defined in Nymeyer as "adding one minimum price increment to the closing price for buy orders and reducing the closing price by one minimum increment for sell orders." (Nymeyer, col. 11, lines 70-75).

The Examiner has interpreted the previously cited passage as follows: "Nymeyer discloses this [generating additional orders] step specifically in column 11, line 68 - column 12, line 3. ~~Here~~ Here Nymeyer discloses that 'at market' orders are determined by adding on a minimum price increment to the closing price for buy orders and reducing the closing price by one minimum increment for sell orders."

As can be seen in the portions of Nymeyer cited above, and applicants' comments thereon, the Examiner's interpretation of Nymeyer's discussion is mistaken. Nymeyer does not generate an additional order at all - Nymeyer allows existing market orders to follow changing market prices. Further support for applicants' interpretation of Nymeyer may be obtained from the following portion of the Nymeyer specification:

... the "at market" bids and offers should be entered ... approximately at the previous \$18.00 price, but within an effective trading range.

One manner in which this can be done is to enter the "at market" buy orders at a price slightly higher than the last sale price.... The increment selected for increasing the buy orders and decreasing the sell orders from the last market price should preferably be no more than the smallest fractional value normally utilized in transactions in the particular market in which the computation system 10 is employed.
(Nymeyer, col. 7, lines 49-61.)

Thus, according to Nymeyer, the price of market orders may be increased or decreased, but the market orders are not generated.

Applicants' invention, as defined by claim 1, automatically generates additional buy and sell orders. Nymeyer does not automatically generate an order, but modifies an existing user "at-market" order. The Examiner's argument that "'at market' orders are assigned based upon the market price, but are not assigned the market price" is irrelevant. (Examiner's Answer, Page 8). The users in Nymeyer place an "at market order," not the system. Thus, no additional orders are automatically generated by Nymeyer. For at least this reason, applicants respectively submit that independent claim 1 is in condition for allowance.

For at least the above reasons, applicants' claim 1 is allowable over Nymeyer. The Examiner does not rely on any other references to reject the element of generating additional orders. Furthermore, claims 9 and 14, each of which include similar limitations as the limitation of claim 1 set forth above, are allowable as well. It follows that dependent claims 2-8 and 11-13, which depend from allowable claims 1 and 9, respectively, are also in condition for allowance.

B. Fernholz Does Not Show or Suggest Generating Additional Currency.

The Examiner further alleges that the limitation of generating electronic currency is "taught by Fernholz in Col. 12, lines 15-16 where the custodial bank is introduced. Fernholz shows that the custodial bank holds cash in electronic form. Then, lines 23-25 disclose that the custodial bank updates cash balance in each portfolio."

Here, too, the Examiner is mistaken. Applicants' invention, as claimed, "generates electronic currency." Generating electronic currency is not transferring currency between banks/portfolios. Generating electronic currency is adding electronic currency to the market. In this instance, the Examiner did not fully grasp the invention, as claimed. Therefore, independent claims 1, 9 and 14 are allowable for this reason as well.

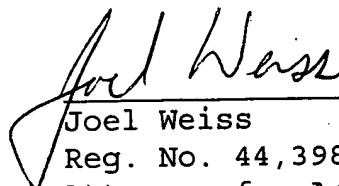
III. Conclusion

In view of the foregoing, it is believed that all pending claims 1, 3-9 and 11-14 are in proper condition for

Application of Keiser et al.
Ser. No. 09/382,907

allowance, and the Board is respectfully requested to overturn
the Examiner's rejection of these claims.

Respectfully submitted,

A handwritten signature in cursive script, reading "Joel Weiss", is written over a horizontal line.

Joel Weiss
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IV. APPENDIX

Claims Currently Pending

1. A method for trading a plurality of instruments in a computerized trading system that receives buy orders and sell orders for an instrument, the method comprising:

measuring an imbalance between the buy orders and sell orders for the instrument received over a given period;

computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

generating an electronic currency to execute the buy and sell orders;

crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader; and

debiting a second trader's account in the electronic currency for the executed buy orders by the second trader.

3. The method according to claim 1, further comprising exchanging the electronic currency in the first or second trader's account for desired currency.

4. The method according to claim 3, wherein the electronic currency are exchanged at a currency exchange web site, and wherein a request for the exchange is transmitted to the currency exchange web site via a secured communication.

5. The method according to claim 1, further comprising purchasing goods or services using the electronic currency in the first or second trader's account, the goods or services being offered for sale by an on-line vendor via a web site on the Internet.

6. The method according to claim 5, wherein a request for the purchase is transmitted to the vendor's web site via a secured communication.

7. The method according to claim 5, wherein the vendor debits the first or second trader's account in the electronic currency for the purchase of goods or services via a secured communication.

8. The method according to claim 1, wherein the additional buy orders or sell orders for the instrument are automatically generated at the market price if the projected

price movement is greater than or equals a predetermined price movement threshold.

9. A computerized trading system for trading a plurality of instruments via buy orders and sell orders, comprising:

means for measuring an imbalance between the buy orders and sell orders for an instrument received over a given period;

means for computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

means for setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

means for automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

means for generating an electronic currency to execute the buy and sell orders; and

means for crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader and for debiting a second trader's account

in the electronic currency for the executed buy orders by the second trader.

11. The system according to claim 9, further comprising means for exchanging the electronic currency in the first or second trader's account for desired currency.

12. The system according to claim 9, further comprising means for purchasing goods or services using the electronic currency in the first or second trader's account, the goods or services being offered for sale by an on-line vendor via a web site on the Internet.

13. The system according to claim 9, wherein the additional buy orders or sell orders for the instrument are automatically generated at the market price if the projected price movement is greater than or equals a predetermined price movement threshold.

14. A computer-readable storage medium for storing program code means for, when executed, causing a computer to perform a method for trading a plurality of instruments in a computerized trading system that receives buy orders and sell orders for an instrument, the method comprising:

measuring an imbalance between the buy orders and sell orders for the instrument received over a given period;

computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

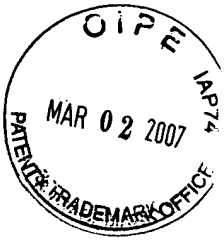
setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

generating an electronic currency to execute the buy and sell orders;

crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader; and

debiting a second trader's account in the electronic currency for the executed buy orders by the second trader.



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No. EV930033126US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicants : Keiser et al.
Application No. : 09/382,907 Confirmation No. : 5840
Filed : August 25, 1999
For : COMPUTER-IMPLEMENTED SECURITIES
TRADING SYSTEM WITH A VIRTUAL
SPECIALIST FUNCTION
Art Unit : 3623

New York, New York 10036
March 2, 2007

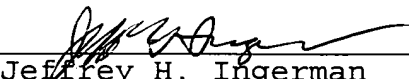
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST TO ASSOCIATE APPLICATION WITH CUSTOMER NUMBER

Sir:

Applicants hereby respectfully request that after entry of the Revocation of Power of Attorney and New Power of Attorney resubmitted herewith, the above-identified patent application be associated with Customer Number 64558.

Respectfully submitted,



Jeffrey H. Ingerman
Reg. No. 31,069
Attorney for Applicants
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
Customer No. 64558
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Express Mail Label No. EV930033126US

DOCKET NO. 10269-11 CIP (HSX/001CIP2)
CONFIRMATION NO. 5840

APPLICANT Timothy Maxwell Keiser, et al.

APPLICATION NO. 09/382,907 FILED August 25, 1999

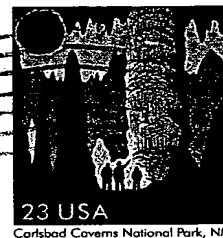
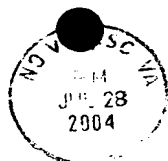
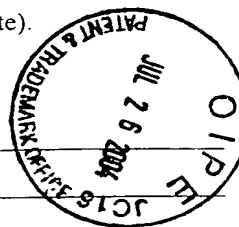
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DATED July 20, 2004

FILED IN CONNECTION WITH THE ABOVE CASE.

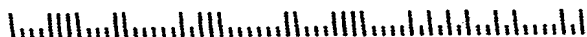
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10269-11CIP
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Timothy M. Keiser, et al.
Application No.: 09/382,907 Confirmation No.: 5840
Filed : August 25, 1999
For : COMPUTER-IMPLEMENTED SECURITIES
TRADING SYSTEM WITH A VIRTUAL
SPECIALIST FUNCTION
Group Art Unit : 2761
Examiner : Akiba Robinson-Boyce
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

TRANSMITTAL LETTER

Sir:

Transmitted herewith: ☐ a Preliminary Amendment; ☐ a Reply to Office Action; ☐ a Supplemental Amendment; ☐ a substitute specification; ☒ a Revocation of Power of Attorney and New Power of Attorney; ☐ a Declaration; ☐ a Supplemental Declaration; ☐ a Power of Attorney; ☐ an Associate Power of Attorney; ☐ formal drawings; to be filed in the above-identified patent application.

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☒ A fee for additional claims is not required.

☐ A fee for additional claims is required.

The additional fee has been calculated as shown below:

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FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM			+ \$290 = \$ 0.00

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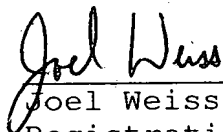
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Respectfully submitted,


Joel Weiss

Registration No. 44,398

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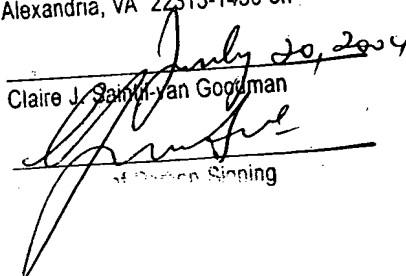
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at Patent Signing



10269-11CIP
(HSX/001 CIP2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Timothy M. Keiser, et al.
Application No.: 09/382,907
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For : COMPUTER-IMPLEMENTED SECURITIES TRADING
SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION
Group Art Unit : 2761
Examiner : Akiba Robinson-Boyce
Commissioner for Patents
P.O. Box 1450
Arlington, Virginia 22313-1450

REVOCATION OF POWER OF ATTORNEY
AND NEW POWER OF ATTORNEY

Sir:

CFPH, L.L.C., the assignee of the entire right, title and interest in and to the above-identified United States patent application, hereby revokes all powers of attorney heretofore existing in said United States patent application, and hereby appoints Laurence S. Rogers (Reg. No. 28,465), Jeffrey H. Ingberman (Reg. No. 31,069), Joel Weiss (Reg. No. 44,398), and Jeffrey D. Mullen (Reg. No. 52,056) as its principal attorneys and agents of record in said United States patent application, with full power of substitution and revocation including the power to appoint associate attorneys and to revoke their powers, to prosecute this application, to make alterations and amendments therein, to receive any Letters Patent, and to transact all business in the Patent and Trademark Office pertaining thereto.

The Patent and Trademark Office is respectfully requested to direct all correspondence and telephone calls to:

Jeffrey D. Mullen
Fish & Neave
1251 Avenue of the Americas
New York, NY 10020
Tel.: (212) 596-9000

CFPH, L.L.C. holds title to the above-identified patent application by virtue of the following three assignments:

1. An October 18, 1999, assignment from Timothy Maxwell Keiser, and a November 5, 1999, assignment from Michael R. Burns to HSX, Inc., recorded at Reel 7923, Frame 0165 on November 12, 1999.
2. A July 13, 2001, assignment from HSX Holdings, Inc. to Hollywood Stock Exchange, LLC, recorded at Reel 012059, Frame 0524 on August 10, 2001.
3. A September 4, 2001, assignment from Hollywood Stock Exchange, LLC to CFPH L.L.C., recorded at Reel 012152, Frame 0966 on September 13, 2001.


The undersigned hereby states and certifies that:

1. He is authorized to act on behalf of assignee in connection with said application; and
2. The relevant evidentiary documents have been reviewed and, to the best of the undersigned's and assignee's knowledge and belief, title to the above-identified United States patent application is in assignee.

CFPH, L.L.C.

July 14, 2004
Date

By:


Robert F. Bahrampour
Vice-President

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